IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 95 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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MAMAD ABDUL SAMA - Appellant(s)
Versus
RAMESHCHANDRA JATASHANKER BUDHBHATTI - Defendant(s)

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Appearance :
MR CH VORA for Appellant(s) : 1,
MR AR THACKER for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 04/08/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellant has challenged the judgment and award dated 19.12.1983 passed by the Motor Accident Claims Tribunal (Aux.), Kachchh at Bhuj (for short, “the Tribunal”) in M.A.C.P. No. 89 of 1982.

2.0 The brief facts of the case are that the appellant herein was working as a part-time servant at the General Post Office at Bhuj. On 22.06.1981, while the appellant was coming out of

the compound of the said Post Office at about 3.30 pm, a motor-cycle bearing Registration No. GJX – 9820 and driven by the respondent herein, dashed the cycle of the appellant. On account of the said accident, the appellant suffered severe bodily injuries. He, therefore, filed a claim petition before the Tribunal claiming compensation of Rs. 25,000/-. However, the Tribunal by impugned award, dismissed the said claim petition. Hence, the present appeal.

3.0 Heard learned counsel for the parties. Admittedly, the accident in question took place just in front of the entrance of the compound of the Post Office. Oral as well as documentary evidences were produced on record by the appellant to show that the respondent was rash and negligent in driving the motor-cycle. However, there is nothing on record to show as to whether the motor-cycle dashed the cycle or that the cycle dashed the motor-cycle. In the absence of documentary evidence on record, the only course open to the Tribunal was to consider the

oral evidence produced by the parties.

4.0 Having considered the oral evidence as well as the facts of the case, the Tribunal recorded a finding that the evidence of the appellant and his witness were untrustworthy since they had tried to change the place of accident in order to blame the respondent. The evidence of the respondent was found to be trustworthy since the same was corroborated by the contents of the panchnama and the probability regarding the speed of the vehicle. Accordingly, the Tribunal came to the conclusion that it was the cycle which had dashed the passing motor-cycle. Thus, it was on due to the negligence of the appellant that the accident in question took place. I am in complete agreement with the reasonings given by and the findings arrived at by the Tribunal and, hence, find no reason to interfere in this appeal.

5.0 In the result, the appeal is dismissed. No order as to costs.

(K. S. Jhaveri, J.)

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